IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.7188 OF 2005

Samarjeet Dayaram Yadav & Ors. ...Petitioners.
Vs.
The Head Master, Shri Gyaneshwar
Hindi School & Ors. ...Respondents.

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Mr. M. S. Lagu for the Petitioners.
Mr. S.P. Thorat for Respondent No.3.
Mrs. M.P. Thakur, AGP for Respondent Nos.4 and 5.
Mr.Mandar Limaye for Respondent No.9.
Mr. R.A. Yadav for Respondent Nos.6, 7 and 8.

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CORAM : KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

March 21, 2006.

P.C.

The Petitioners are working in Respondent No.1 school since 1986-87. According to them, from 1987 onwards, the School was granted sanction and approval on non-aided basis and the Petitioners' names were also sent for approval to the Education Officer and the same were approved as well from time to time. According to the Petitioners, they are working on sanctioned posts and their appointments are also approved by the concerned authorities from time to time. It is the grievance of the Petitioners that even though the Petitioners are eligible to receive grant on the

basis of the Resolutions which are passed to that effect from time to time, the Education Officer sanctioned and approved appointments of other four teachers i.e. Respondent Nos.6, 7, 8 and 9, who are juniors to the Petitioners, thereby illegally depriving the Petitioners of their valuable rights. The Petitioners have challenged the said action in the present petition. The Respondents have justified their stand by filing reply wherein it is pointed out that Respondent Nos.6 to 9 are trained teachers. The Learned Counsel appearing on behalf of the Petitioners submitted that the Petitioners have also become trained teachers while they are in service.

We have heard the Learned Counsel for the parties at length. In our opinion, the dispute raised in this petition can as well be decided by the Education Officer, particularly in view of the fact that the representation made by the Petitioners challenging the appointments of Respondent Nos.6 to 9 is pending. In view of this, the following directions are given :

-(i) Over and above the representation made by the Petitioners, the Petitioners shall make a further detailed

representation with necessary documents to substantiate their case before the Education Officer within two weeks from today.

-(ii) Respondent Nos.6 to 9 shall file their own representation justifying their claim within two weeks from today with necessary documents.

-(iii) The Education Officer, Respondent No.3 herein, shall hear and decide the representations in the light of the judgment delivered by this Court in the case of **Chintaman Ramaji Mahakalkar vs. The Education Officer,** (2003(2) ALL M.R. 658), after affording hearing to the Petitioners and Respondent Nos.6 to 9 and take appropriate decision within eight weeks thereafter and shall communicate his decision to them.

-(iv) Till such time whatever grant that would be payable to the concerned Respondents, shall be paid subject to the orders that would be passed.

The petition stands disposed of in the above terms. No oder as to costs.

CHIEF JUSTICE

Dr.D. Y. Chandrachud, J.